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LR 1002 Petitions, Schedules and Summary Information Sheet.

Number of Copies. All parties filing petitions for relief pursuant to the Code, other than electronically, shall file an original and copies as set forth in the Appendix.

(a) ~~Chapter 7.~~ The petitioner shall file an original and three copies for cases under chapter 7.

(b) ~~Chapter 11.~~ The petitioner shall file an original and six copies for cases under chapter 11.

(c) ~~Chapter 12.~~ The petitioner shall file an original and four copies for cases under chapter 12.

(d) ~~Chapter 13.~~ The petitioner shall file an original and two copies for cases under chapter 13.

Comment: The Committee believes that the number of copies for all filing should be contained in the Appendix. Therefore, the number of copies for Chapters 7, 11, 12 and 13 will be moved to the Appendix.

LR 1002.1 Summary Information Sheet. ~~An original and one copy of A~~ summary information sheet shall be filed at the time the petition is filed, unless the petition is filed electronically. See the Appendix for the Summary Information Sheet.

Comment: The Committee believes the form of the summary information sheet should be placed in the Appendix.

LR 1002.2 Electronically Filed Cases; Debtor to Maintain Paper Copies. For any case which has been filed electronically, debtors shall maintain and bring to the section 341 meeting a true and accurate signed copy of their petition, schedules and Statement of Financial Affairs, and amendments thereto, and furnish them to the trustee upon request.

Comment: The primary purpose for this rule is to provide a backup of a paper copy in the event of a computer or electronic failure for electronically filed cases. In addition, the committee believes there may be other useful purposes served by this rule, such as providing evidence of the debtor's signature in electronically filed cases.

LR 1005 Disclosure of Spouse. In any case filed by a married debtor in which the debtor's spouse is not a joint debtor, the name, address, and social security number of the debtor's spouse shall be included in the summary information sheet and in the notice of the section 341 meeting of creditors, except that only the last four digits of the social security number shall be included in the notice of the section 341 meeting of creditors. The debtor's spouse's name shall appear in the caption of all notices, pleadings and other papers filed in the case and in any adversary proceeding within the case.

Comment: The Committee notes that since Wisconsin is a marital property state it is important to identify the non-filing spouse to creditors. The Committee believes it is prudent to err on the side of inclusion rather than exclusion. Therefore, it was decided to continue the disclosure on all notices and pleadings and other papers filed in the case, including any adversary proceedings.

LR 1007 Master List (“Matrix”). In all cases, the debtor shall prepare and file a separate master list in the form specified by the clerk. The master list shall serve as the official mailing list in all cases. The master list shall contain the name and address of all creditors and other parties in interest entitled to notice. The master list shall also include the name and address of the debtor’s spouse if not a joint debtor. ~~The debtor shall file two copies of the master list in chapter 13 cases.~~

Comment: The reference in the Interim Rules to the number of copies was deleted because it will be placed in the Appendix.

LR 1007.1 Disclosure of Spouse’s Earnings and Expenses. In any case filed by a married debtor in which the debtor’s spouse is not a joint debtor, the statement of current earnings and expenses shall separately disclose the earnings and expenses of the debtor’s spouse, if the debtor’s spouse resides with the debtor.

LR 1007.2 Disclosure of Marital Agreements. The debtor’s Statement of Executory Contracts and Unexpired Leases shall disclose any marital agreement that affects the classification of nonexempt assets of the spouses or that affects any liability of the spouses.

LR 1007.3 Disclosure of Transfers and Loan Payments by The Debtor’s Spouse. In any case filed by a married debtor in which the debtor’s spouse is not a joint debtor, the Statement of Financial Affairs shall include transfers of marital property by each spouse and loan payments made with marital property by each spouse for the same period as required by the debtor.

Comment: The rule was amended to provide that the disclosure period for the debtor’s spouse is the same as the debtor’s disclosure period.

LR 1009 Amendment of Petition, Lists, Schedules and Statement of Affairs. All amended Petitions, Lists, Schedules or Statements of Affairs shall include the entire Petition, Lists, Schedules or Statement of Affairs affected by the amendment and shall be filed together with the required oath by the debtor. If amending schedules D, E or F or the list of creditors, a supplemental master list shall be filed, listing only the new creditors. See the Appendix for the required fee for amendments. The debtor shall file proof of service of the amendment on all interested parties the new creditors, including notice of commencement of the case, and the trustee.

Comment: The Committee thought it useful to define those parties that should receive notice of the amendments. The Committee noted that the new creditors should receive notice of the amendments and of the commencement of the case. In addition, the Committee recommended that the trustee should also receive notice of the amendments.

LR 1013 Designation of Responsible Individual in Involuntary Corporate Non-Individual Cases. Immediately after issuance of an Order for Relief, in a case where the debtor is a corporation, ~~or partnership~~, limited liability company or limited liability partnership, the petitioning creditors(s) shall seek an order designating an individual to be responsible for carrying out the duties of the debtor. Failure to seek such order may result in dismissal of the case or other appropriate action by the court.

Comment: The heading and language in the rule were amended to reflect entities other than a corporation.

LR 1015 Administration of Related Cases.

- (a) **Husband and Wife.** Cases commenced by the filing of a Joint petition by or against a husband and wife shall be administered jointly unless the court directs otherwise.
- (b) **Related Cases.** At the time a case is filed, the petitioner shall notify the clerk if the case is related, as defined in Bankruptcy Rule 1015 (b), to any other case in this district now pending or pending within the past two years. In the event the case is related to another pending case or one pending within the past two years, the clerk shall assign the case to the judge who presided in the preceding related case.

Comment: The Committee considered it important to define the term “related cases.” The Committee recommends that the term “related cases” be defined by the first sentence of Bankruptcy Rule 1015(b). The Committee also wished to define a “preceding case”, and suggests that a “preceding case” is one currently pending or pending within the past two years.

LR 1017 Conversion from Chapter 7, 11 or 12 to Chapter 13. Upon conversion of a case from chapter 7, 11 or 12 to chapter 13, the debtor shall, within 15 days of the entry of the order of conversion, file with the court and send to the trustee a ~~chapter 13 statement~~ summary information sheet, a copy of the proposed plan, schedules and other documents required by these rules and the Bankruptcy Rules. See the Appendix for the summary information sheet.

Comment: The 15 days after which the conversion schedules are to be filed needed a starting point, so the entry of the conversion order was chosen. Also, Committee believes that the reference in the rule to a “Chapter 13 Statement” should be modified to simply reflect a summary information sheet. Finally, the Committee recommends that the summary information sheet be made available in the appendix as a form.

LR 2014 Applications for Employment.

- (a) **Content of Application.** An application for authorization to employ a professional under section 327 or 1103 shall include a specific recitation of the anticipated services to be rendered together with an estimate of the cost associated with each service.
- (b) **Proposed Order Authorizing Employment.** An application for authorization to employ a professional under section 327 or 1103 shall be accompanied by a proposed order which shall include:
 - (1) the proposed terms and method of calculating compensation so that reference back to the application need not be made; and
 - (2) a reasonable fee cap based on the estimates set forth in the application.
- (c) **Exceptions to Fee Cap Requirement.** Except as otherwise ordered by the Court, the fee cap requirement set forth in LR 2014(b)(2) shall not apply to general counsel for a Debtor-In-Possession under Chapter 11 or Chapter 12 of the Code nor shall the fee cap requirement apply to general counsel for an Official Committee of Unsecured Creditors under Chapter 11 of the Code.
- (d) **Motion to Increase Fee Cap.** If a professional believes that a fee cap contained within an employment order is insufficient to cover the services to be rendered, such professional shall, prior to exceeding the cap, file a written motion to increase the fee cap.
- (e) **Service of Application.** Applications for employment and Motions to Increase a fee cap shall be served upon the United States Trustee, the debtor, the debtor's attorney, the attorney for any committee appointed under the Code, and any other person designated by the Court.
- (f) **Objections to Application.** Objections to applications for employment shall be filed and served within ten (10) days after the filing of the proof of service of the application on the parties required by subpart (e) of this Rule.

Comment: The rule remains largely the same as under the old Local Rules, with a few exceptions. The new rule, while eliminating some of the mandatory language in the employment orders, requires the term(s) of compensation to be set forth in the proposed order of employment so that reference back to the original application for employment need not be made. The new rule also clarifies that certain professionals are not required to have a fee cap. In addition, the U.S. Trustee's time to respond to an application for employment is expanded from 5 days to 10 days.

LR 2016

Applications for Compensation for Services Rendered and Reimbursement of Expenses.

- (a) **Contents of Applications for Compensation.** All applications for Compensation shall provide all relevant information, including:
 - (1) A chronological record of time spent on a case, including the individual(s) participating and the subject matter of a meeting, letter, or conference, with each task record in tenths of an hour, if the fee is anticipated to exceed \$10,000 for a professional or firm, a separate chronological record shall be kept for each major task;
 - (2) A summary of the time expended by each person for whom compensation is sought;
 - (3) A detailed breakdown by item and date of all disbursements and expenses;
 - (4) An explanation of the need for compensation of more than one professional attending a hearing or meeting or the need for more than one level of review of work produced, in each instance for which multiple compensation is sought;
- (b) **Interim Compensation.** In addition to providing the information required under Bankruptcy Rule 2016 and LR 2016 (a), applications for interim compensation shall include sufficient information to demonstrate that such interim allowance will not create an undue hardship on the debtor, the estate and all parties in interest.
- (c) **Final Compensation.** Applications for final compensation shall include a summary of all fees and expenses requested whether or not those fees and expenses have been paid in whole or in part through interim compensation. A detailed itemization of these charges need not be provided if it has been provided in an application for interim compensation. Applications for final compensation may include estimated amounts for anticipated services not yet rendered.

LR 2016.1

Presumed Reasonable Fee in Chapter 13. A fee of \$1500 or less may be allowed as an administrative expense in a chapter 13 case without a formal fee application.

Comment: The Committee believes a presumed reasonable fee in Chapter 13 cases is useful to the public and the practicing bar. The Committee also discussed whether a presumed reasonable fee should be established in a Chapter 7 case. Considerable differences of opinion were expressed. Failing resolution of the issue, the Committee expressed a consensus that practitioners continue to maintain time records in their cases.

LR 3001 **Secured Claims in Chapter 12 and 13 Cases.** A copy of any secured claim shall be sent to the debtor, the debtor's attorney and the standing chapter 12 or 13 trustee. When a claim secured by real estate is filed, it shall separately state and itemize any claim for arrearages.

Comment: The order of the sentences from the interim rule has been switched. The Committee was concerned that since the original first sentence referred to "claims secured by real estate" that the second sentence might be understood to refer to only claims secured by real estate. The original second sentence should not be restricted to secured real estate claims, but should also include personal property secured claims. Therefore, the Committee recommended switching the order of the two sentences to make clear that the first sentence refers to any secured claim and the second sentence simply deals with secured real estate claims. It was noted that once the new electronic system is in place, the system will provide access to all claims including the secured claims. In such an event, this section will no longer be necessary.

LR 3001.1 **Pre-computed Interest on Secured Claims in Chapter 12 and 13 Cases.** A secured claimant seeking interest during the term of the plan shall separately show the principal sum due and the pre-computed interest.

LR 3007 Objections to Claims; Response

- (a) An objection to a claim shall deal with one claim only. Omnibus objections to multiple claims are prohibited. All subsequent pleadings, orders or other papers filed with respect to the objection shall relate to that one claim only.
- (b) An objection to a claim in a case as well as any other pleading, order or other paper filed with respect to the objection shall state the name of the creditor and assigned claim number in the title of the document.
- (c) No responsive pleading is required to an objection to a claim.

Comment: Subsections (a) and (b) will provide more relevant information to interested parties. Subsection (c) makes it clear that the objection to the claim effectively joins the issue and no further pleading is required.

LR 3007.1 Objections to Claims; Hearings. Hearings on objections to claims shall be scheduled by the court and notice under Bankruptcy Rule 3007, accompanied by a copy of the objection, shall be served by the court or the objecting party, if the court so directs. The notice shall state whether the hearing is evidentiary or preliminary.

Comment: Bankruptcy Rule 3007 appears to make hearings on objections mandatory. Under current practice some courts set the date and notice the hearing while others direct the objecting party to do so. This rule formalizes the practice and puts the objecting party on notice to inquire of the court's preference on service and whether the hearing is evidentiary or preliminary.

LR 3015 **Modification of Chapter 13 Plans. Notice of Proposed Modifications and Hearing on Objections.** Pre and post confirmation modifications of Chapter 13 plans shall follow the procedure set forth in Bankruptcy Rule 3015 (g). ~~The debtor~~

~~shall give notice of a proposed modification to creditors adversely affected by the proposed modification.~~ If there is no objection within 20 45 days, the debtor shall file an affidavit of no objection. ~~together with a proposed order modifying the plan.~~ Upon request of any creditor or interested party, the debtor shall serve that party all affected parties with a copy of any order modifying the plan

Comment: The Committee believes it is useful to reference bankruptcy rule 3105 (g) which denotes procedures that can be applied to pre and post confirmation modifications. There was considerable discussion on confirmations, modifications and who is to receive notice of the various orders. The Committee recommended that the last sentence of the rule be modified to more particularly clarify who should be served with a copy of any order modifying the plan. The term “all affected parties” was thought to be too broad.

LR 3015.1 Chapter 13 Model Plan. Chapter 13 plans shall substantially conform to the Model Plan set forth in the appendix to these rules.

Comment: The purposes for a model plan are to eliminate plan ambiguities, give adequate notice to creditors of treatment in the plan, provide a readable, consistent plan format for trustees, satisfy the mandatory requirements of 11 U.S.C. 1322 and 1325, to assist pro se filers, and to provide uniformity in the district.

LR 3017 Disclosure Statement.

- (a) **Notice of Hearing and Disclaimer.** The proponent of a plan shall give notice of the hearing to consider approval of the Disclosure Statement. The notice shall include the following statement in bold face type.

THIS NOTICE DOES NOT CONSTITUTE A SOLICITATION OF ACCEPTANCES OF A PLAN OF REORGANIZATION. ACCEPTANCES MAY NOT BE SOLICITED UNLESS AND UNTIL THE DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE COURT.

- (b) **Required Statement.** After approval by the court, the Disclosure Statement, or a separate notice shall conspicuously state the following.

THIS DISCLOSURE STATEMENT HAS BEEN DETERMINED BY THE COURT TO CONTAIN ADEQUATE INFORMATION AS REQUIRED BY SECTION 1125 OF THE CODE. THIS DETERMINATION DOES NOT CONSTITUTE RECOMMENDATION OR APPROVAL OF THE PLAN.

LR 3017.1 Pre-packaged Plans.

- (a) **Declaration of Counsel for Debtor-in-Possession.** In connection with any request for the special setting of hearing to approve a disclosure statement or a combined hearing to approve a disclosure statement and confirm a plan, in addition to any other required papers, counsel for the debtor-in-possession shall submit a declaration covering the following points:

- (1) **Retention of Counsel.** The date counsel was retained by the debtor, the approximate number of hours of professional time expended pre-petition, compensation paid to counsel pre-petition including source of payment and the approximate amount of accrued but unpaid compensation.
- (2) **Communications with Creditors.** A description of any written communications of the debtor with substantially all of debtor's creditors during the pre-petition reorganization process relating to the workout or plan process. Copies of letters should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.
- (3) **Communications with Shareholders or Partners.** A description of any written communications with substantially all of debtor's shareholders or partners of a partnership during the pre-petition reorganization process relating to the workout or plan process. Copies of letters should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.
- (4) **Creditors' Committee.** If a Creditors' Committee existed pre-petition, indicate the date and manner in which the committee was formed.
- (5) **Counsel for Committee.** If the pre-petition Creditors' Committee retained counsel, indicate the date counsel was engaged and the selection process.
- (6) **Position of United States Trustee.** It is expected that the United States Trustee will be consulted prior to, or simultaneously with, the filing. Set forth the position of the United States Trustee regarding the request for a special setting, if known.

(b) **Declaration of Counsel for Creditors' Committee.** Where counsel has represented a pre-petition Creditors' Committee and anticipates representing the Official Creditors' Committee when appointed, counsel should submit a declaration covering the following points:

- (1) **Retention of Counsel.** The date counsel was retained by the Committee, the approximate number of hours of professional time expended pre-petition, compensation paid to counsel pre-petition including source of payment and the approximate amount of accrued but unpaid compensation.
- (2) **Investigation of Committee and Counsel.** A summary description of the scope and results of any investigation into the debtor's affairs conducted by the Committee and/or its counsel.

(3) **Communication with Creditors.** A description of any written communications of the Committee or its counsel with substantially all of debtor's creditors during the pre-petition reorganization process relating to the workout or plan process. Copies should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.

(4) **Involvement in Formulation of Plan and Disclosure Statement.** A description of the Committee's and counsel's involvement in the formulation of the plan and disclosure statement.

Comment: The Committee believes that this rule will set guidelines for practitioners in the prepackaged plan of reorganization process. The rule is modeled upon similar rules in other jurisdictions.

LR 4001 ~~**Cash Collateral.** A motion seeking authorization to use cash collateral under §363 of the Code shall include the following information:~~

- ~~(a) name, address and telephone number of each creditor claiming a security interest in the cash collateral and of the a creditor's attorney, if known;~~
- ~~(b) efforts made to contact such creditors and their attorneys with regard to the motion;~~
- ~~(c) the total dollar amount of cash collateral sought to be used or the method of determining the amount; and~~
- ~~(d) a description of the adequate protection proposed for each creditor claiming an interest in the cash collateral.~~

LR 4001 **Cash Collateral and Financing Orders.**

- (a) **Motions.** Except as provided herein and elsewhere in these Rules, all cash collateral and financing requests under 11 U.S.C. §§ 363 and 364 shall be heard by motion filed pursuant to Bankruptcy Rules 2002, 4001 and 9014 ("Financing Motions").
- (b) **Provisions to be Highlighted.** All Financing Motions must (1) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated below; (2) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement; and (3) provide the justification for the inclusion of such provision:
 - (1) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the pre-petition secured creditors (i.e., clauses that secure pre-petition debt by post-petition assets in which the secured creditor would not otherwise have a security interest by virtue of its pre-petition

security agreement or applicable law).

- (2) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured creditor's pre-petition lien or debt or the waiver of claims against the secured creditor without first giving parties-in-interest at least 75 days from the entry of the order and the creditors' committee, if formed, at least 60 days from the date of its formation to investigate such matters.
- (3) Provisions that seek to waive, without notice, whatever rights the estate may have under 11 U.S.C. § 506(c).
- (4) Provisions that grant immediately to the pre-petition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549.
- (5) Provisions that deem pre-petition secured debt to be post-petition debt or that use post-petition loans from a pre-petition secured creditor to pay part or all of that secured creditor's pre-petition debt, other than as provided in 11 U.S.C. § 552(b).
- (6) Provisions that provide for a substantially smaller or no professional fee carve-out for the professionals retained by a creditors' committee as compared to the professional fee carve-out for the professionals retained by the debtor.
- (7) Provisions that prime any secured lien, without the consent of that lienor.
- (8) Super-priority positions unless a significant carve-out is proposed.
- (9) A secured creditor obtaining a higher administrative expense priority than Chapter 11 expenses of administration or Chapter 7 expenses of administration in the event of a conversion from Chapter 11.
- (10) Automatic perfection of security interests in "replacement lien collateral" without filing or re-filing UCC statements.
- (c) **Summary of Terms.** All Financing Motions shall also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations and protections afforded under 11 U.S.C. §§ 363 and 364).
- (d) **Interim Relief.** When Financing Motions are filed with the Court on or

shortly after the date of the entry of the order for relief, the Court may grant interim relief pending review by the interested parties of the proposed debtor-in-possession financing arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the Court shall not approve interim financing orders that include any of the provisions previously identified in subsection (b)(1) through (b)(10) of this Rule.

- (e) **Final Orders.** A final order shall be entered only after notice and a hearing pursuant to Bankruptcy Rule 4001 and LR 9014. Ordinarily, the final hearing shall be held at least ten (10) days following the organizational meeting of the creditors' committee contemplated by 11 U.S.C. § 1102.

Comment: The Committee believes that this rule will facilitate review by the court and parties in interest, especially in connection with first day motions. The rule requires the movant to highlight provisions which may be considered pro lender for the court and will hopefully permit the court to ensure that the rights of all parties, even those not represented at the first day hearings are considered.

- LR 4001.1** **Lifting of the Automatic Stay.** All motions for relief from the Stay shall be served on the trustee administering the case.

Comment: The Committee believes that this rule is useful to make clear that the trustee is one of the parties in interest on lift stay matters.

- LR 5005** **Electronic Filing.** The court will accept for filing documents submitted, signed or verified by electronic means that comply with procedures established by the court.

- LR 5005.1** **Facsimile Filing.**

- (a) Upon application certifying exceptional circumstances and such notices as the court may require, the court may authorize the filing by facsimile transmission of documents other than bankruptcy schedules or amendments thereto.
- (b) A facsimile filing is deemed to occur upon the print out and receipt of the document in the office of the clerk except as otherwise provided in this rule.
- (c) Where the facsimile filing occurs after 4:30 p.m. weekdays, on a Saturday, Sunday or legal holiday, the filing is deemed to have occurred at 8:30 a.m. on the next business day.
- (d) Such filing may be disregarded unless the original document is filed in the office of the clerk within five days after such filing.

LR 6004 The Sale of Substantially all Assets Under Section 363 Within 60 Days of the Filing of the Petition.

- (a) **Declaration of Counsel for Debtor-in-Possession.** In connection with any hearing to approve the sale of substantially all assets within 60 days of the filing of the petition, the request for an emergency hearing or the sale motion ("Sale Motion") itself when regularly noticed, should be supported by a separate declaration by counsel for the debtor-in-possession covering the following points:
- (1) **Communications with Creditors.** A description of any written communications of the debtor with substantially all of the debtor's creditors during the pre-petition reorganization process relating to the workout or sale process. Copies of letters should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.
 - (2) **Communications with Shareholders or Partners.** A description of any written communications with substantially all of the debtor's shareholders or partners of a partnership during the pre-petition reorganization process relating to the workout or sale process. Copies of letters should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.
 - (3) **Creditors' Committee.** If a Creditors' Committee existed pre-petition, indicate the date and manner in which the committee was formed.
 - (4) **Counsel for the Committee.** If the pre-petition Creditors' Committee retained counsel, indicate the date counsel was engaged and the selection process.
 - (5) **Sale Contingencies.** Statement of all contingencies to the sale agreement together with a copy of the agreement.
 - (6) **Creditor Contact List.** If no committee has been formed, a list of contact persons, together with fax and phone numbers for each of the largest 20 unsecured creditors.
 - (7) **Administrative Debts.** Assuming the sale is approved, an estimate of administrative debts to be incurred prior to closing and the source of payment for such debts.
 - (8) **Proceeds of Sale.** An estimate of the gross proceeds anticipated from the sale together with an estimate of the net proceeds coming to the estate with an explanation of the items making up the difference.

- (9) **Debt Structure of Debtor.** A brief description of the debtor's debt structure, including the amount of the debtor's secured debt, priority claims and general unsecured claims.
 - (10) **Disposition of Proceeds.** A statement setting forth, to the best of declarant's knowledge, the likely distribution of proceeds to secured claimants, administrative claimants, priority claimants and general unsecured creditors.
 - (11) **Effect on Employment.** A statement setting forth, to the best of declarant's knowledge, the number of debtor's employees, if any, who will be retained by the buyer after the sale.
- (b) **Affidavit of Responsible Individual for Debtor-in-Possession.** Counsel's declaration referred to in paragraph (a) above should be accompanied by an affidavit from the responsible individual, to the best of affiant's knowledge and belief, covering the following matters:
- (1) **Alternatives to Sale.** A summary description of the efforts, if any, to pursue other alternatives such as financing, capital infusion, etc., including the period of time involved and the results achieved.
 - (2) **Marketing of Assets.** A summary description of the manner in which the assets were marketed for sale including the period of time involved and the results achieved.
 - (3) **Decision to Sell.** The date on which the debtor accepted the offer to purchase the assets.
 - (4) **Asset Valuation.** Disclosure of the prior valuations, undertaken or commissioned by the debtor, within the last year, of the assets to be sold, if any (i.e., book value, appraisals, financial statements, etc.).
 - (5) **Relationship of Buyer.** A statement identifying the buyer and setting forth, to the best of affiant's knowledge, all of the buyer's (including its officers, directors and shareholders) connections with the debtor, material connections with creditors, any other party in interest, their respective attorneys, accountants, the United States Trustee or any person employed in the office of the United States Trustee.
 - (6) **Post Sale Relationship with Debtor.** A statement setting forth, to the best of affiant's knowledge, any relationship or connection the debtor (including its officers, directors, shareholder and employees) will have with the buyer after the consummation of the sale, assuming it is approved.

- (7) **Relationship with Secured Creditors.** If the sale involves the payment of all or a portion of secured debt(s), a statement of all material connections between debtor's officers, directors, employees or other insiders and each secured creditor involved (for example, release of insider's guaranty).
- (8) **Insider Compensation.** Disclosure of current compensation received by officers, directors, key employees or other insiders pending approval of the sale.
- (c) **Declaration of Counsel for Creditors' Committee.** Where counsel has represented a pre-petition Creditors' Committee and anticipates representing the Official Creditors' Committee when appointed, counsel should submit a declaration covering the following points:
 - (1) **Investigation of Committee and Counsel.** A description of the scope and results of any investigation into the debtor's affairs conducted by the Committee and/or its counsel.
 - (2) **Communication with Creditors.** A description of any written communications of the Committee or its counsel with creditors during the pre-petition reorganization process relating to the workout or sale process. Copies should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.
 - (3) **Involvement in Sale.** A description of the Committee's and counsel's involvement in the negotiation of the sale.
- (d) **Hearing and Notice Regarding Sale.**
 - (1) Any motion to approve sale or bid procedures ("Sale Procedures Motion") shall be filed with the Sale Motion. A hearing on the Sale Procedures Motion shall be held not less than 10 days before any auction or presentation of competing bids.
 - (2) Any Sale Procedures Motion shall be accompanied by a declaration of counsel for the debtor-in-possession highlighting the following provisions:
 - (A) The time and place of the bidding process, and whether telephone participation will be permitted.
 - (B) The amount of any initial bid.
 - (C) The amount of any required overbid (overbid protection).
 - (D) The amount of subsequent bidding increments.

- (E) Any "last look" or rights to match previous bids offered to any party.
 - (F) The amount and form of any required bid deposits, and the manner and timing of the return of bid deposits to unsuccessful bidders.
 - (G) The effect of the winning bidder's failure to close (for example, loss of bid deposit; liability for other damages; obligations, if any, of the next highest bidder or other bidders to close).
 - (H) The parameters of due diligence investigation offered to prospective bidders.
 - (I) To the extent not covered above, a summary of the essential terms of any purchase agreement.
- (3) If no Sale Procedures Motion is filed, unless the court orders otherwise, all sales governed by these rules, including auctions or the presentation of competing bids, will occur at the hearing before the court.
 - (4) The Notice of any Sale Procedure Motion sent to creditors and other parties in interest shall contain the information required by paragraph (d) (2).
 - (5) The notice sent to creditors and other parties in interest of the Sales Motion should contain the information required by paragraphs (a)(7) through (10) and (b)(1) through (8) above, in addition to any other matters normally set forth in a notice of sale.
- (e) **Proposed Order Approving Sale.** A proposed order approving the Sale Procedures Motion and the Sale Motion should be provided to chambers 24 hours prior to the respective hearing.
 - (f) **Good Faith Finding.** There must be an evidentiary basis for a finding of good faith under § 363(m). Evidence can be presented in the form of a declaration from the prospective purchaser.
 - (g) **Competing Bids.** Unless otherwise provided in the Order approving Sale Procedures Motion, or unless the court orders otherwise, competing bids can be presented at the time of the hearing.
 - (h) **Financial Ability to Close.** Unless the court orders otherwise, any competing bidder must be prepared to demonstrate to the satisfaction of the court its ability to consummate the transaction if it is the successful bidder.

(i) **Damages Payable to Prospective Purchaser.**

- (1) Whether denominated liquidated damages, breakup fee, topping fee or other designation, no damages of any kind are payable to a prospective purchaser or its agents absent approval of the court in the Order approving Sale Procedures Motion or otherwise.
- (2) If a provision for damages is contained in the original purchase agreement, to be enforceable, the parties must disclose the provision, identify where it appears in the purchase agreement and obtain court approval for the provision separate from court approval of the general terms of the purchase agreement
- (3) A request for the approval of a damage provision shall be supported by, in addition to any other required papers, a declaration from counsel for the debtor-in-possession setting forth the precise conditions under which damages would be payable and the factual basis on which the seller determined the provision was reasonable. Counsel for the proposed buyer may, but is not required to, submit a similar declaration.

Comment: The Committee believes that this rule recognizes the fact that many Chapter 11 cases result in a sale of assets under 11 U.S.C. 363, whether or not such sale is followed by a plan. The rule, which is modeled upon similar rules in other jurisdictions, requires substantial disclosure about the sale process and the participants so as to permit the court and parties in interest to evaluate the proposed sale in comparison to other alternatives.

LR 7004 Adversary Filing Procedures.

(a) **Procedures.** Procedures relating to the number of copies, Form B 104 Cover Sheet and issuance of Adversary Summons are set forth in the Appendix.

~~(a) **Number of Copies.** In adversary proceedings, an original and one copy of all documents shall be filed, except as provided in 7004 (1 and (c).~~

~~(b) **Adversary Proceeding Cover Sheet.** Form B-104 shall be filed with the filing of a complaint.~~

~~(c) **Issuance of Summons.** The plaintiff shall submit to the clerk one original Summons and Notice of Trial (or Pretrial Conference).~~

~~(d)~~

(b) **Copies of Summons and Complaint to be Provided to U. S. Trustee.** A copy of the Summons and Complaint and Adversary Proceeding Cover Sheet shall be transmitted by the plaintiff to the U.S. Trustee. No other pleadings shall be transmitted to the U. S.

Trustee unless specifically requested by that office.

Comment: The rule takes prior subsections (a), (b) and (c), which were more ministerial in nature, and places them in the Appendix. New subsection (a) references the procedures now contained in the Appendix. Prior subsection (d) has become subsection (b).

LR 7005 Proof of Service. Certification or proof of service of ~~a copy of any pleading shall be by separate document endorsed upon any part of the pleading, or attachment thereto,~~ and shall indicate the date, method of service, and names and addresses of parties served.

Comment: This will provide more relevant information to interest parties.

LR 9001 Rules of Construction.

- (a) Wherever used in these rules or in the Local Rules for the United States District Court for the Eastern District of Wisconsin, the word “clerk” means Clerk of the United States Bankruptcy Court for the Eastern District of Wisconsin, unless the context requires reference to the Clerk of the District Court.
- (b) Reference to “judge” in the Local Rules for the United States District Court for the Eastern District of Wisconsin shall include bankruptcy judges unless the context requires otherwise.
- (c) These Rules are intended to be enforced primarily on the court’s own initiative, and the filing of motions alleging noncompliance with a rule shall be reserved for egregious cases.

LR 9001.1 Applicability. The word “motion” in these rules, applies to all motions, applications, notices of intended action and objections, and U.S. Trustee comments. ~~and related matters.~~

LR 9004 Form and Number of Documents.

- (a) **Size and Legibility of Documents Generally.** All documents not filed electronically, except exhibits, shall be on letter size (8 ½" x 11") durable , opaque, unglazed paper, fastened at the top without special backing or binding; plainly and legibly written, typewritten, printed or reproduced; and without erasures or interlineations materially defacing them. Documents that are not typewritten or otherwise printed shall be in ink or its equivalent. Except for exhibits, only one side of each paper shall be used. All pages shall be sequentially numbered.
- (b) **Pleadings, Motions, Briefs.** All pleadings, motions, responses to motions, briefs, stipulations, affidavits, and proposed orders shall be double spaced and in not less than 12 point type, unless that judge authorizes in advance an alternative method. No brief shall exceed 15

pages, excluding exhibits and attached cases, without prior express authorization of the judge. Exhibits, including discovery documents, shall be limited to those to which reference is made in the brief or memorandum.

- (c) **Rule Not Applicable to Approved Forms.** Forms approved by this court or approved for use in federal courts are exempt from these requirements.
- (d) **Identification of Documents.** All documents shall include the name of the court, the title of the case, the chapter number, the proper case number with the initials of the assigned judge, and the name or nature of the document. All pleadings shall be signed by an attorney, or by the litigant if appearing pro se, and have typed thereon at the bottom left of the first page, single spaced, the name, address, telephone number, fax number and e-mail address of each person signing the pleading.
- (e) **Original and One Copy Required.** Except as noted in LR 1002, all documents, not filed electronically, including all correspondence, shall be filed in the original with one additional copy for a chambers copy. If a person requests a conformed copy, an additional copy and a self-addressed stamped envelope shall be finished by the requesting person.
- (f) **Forms of Proposed Orders.** Each proposed order shall be submitted as a separate document. The signature line for the judge shall not appear on a continuation page that is blank or that contains only the case number and title of the case. The name, address, telephone number, fax number and e-mail address shall appear in the lower left hand corner of the first page, single spaced.

LR 9006 **Motions for Extension of Time.** A motion for an extension of time shall state the date the original time will expire and the names of all known persons who may be adversely affected by the extension.

LR 9010 **Withdrawal and Substitution of Attorneys of Record.** An attorney who has appeared as the attorney of record for the debtor, trustee creditors' committee, or party in a case, adversary proceeding, or contested matter may not withdraw, be relieved or displaced except by notice to the party represented and any adversaries and by leave of the court.

LR 9010.1 **Disclosure of Attorney Who Drafts Petition, Pleading, Proposed Order, Trial-Related Document, Schedule, or Statement of Affairs ; Prohibition Against Ghostwriting.** Any attorney, whether or not the attorney of record, who makes a major, substantive contribution to a petition, pleading, proposed order, trial-related document, schedule, or statement of affairs which is filed with the court or is intended to be filed with the court shall disclose the name, address, phone number, facsimile number, and e-mail address of the attorney in the lower left corner of the first page.

LR 9011 ~~**Attorney's Signature Block.** If the debtor is represented by an attorney, the attorney's name, address, telephone number, fax number and e-mail address shall be typed below the attorney's signature.~~

Comment: The Committee considered this rule to be superfluous in light of the requirements of Bankruptcy Rule 9011 and LR 9004(d).

LR 9013 Form of Motions, Notices and Orders.

- (a) **Caption.** Every motion, proposed order and notice of intended action shall contain in the caption a description of the relief requested or action intended.
- (b) **Reliance Upon Matters of Fact.** When a motion relies in whole or in part upon matters of fact, the motion shall be served and filed with supporting documents.
- (c) **Disclosure of Basis of Motion.** Every motion shall state the code section(s), rule(s) or other authority upon which the request for relief is based.

LR 9013.1 Proof of Service. Every motion shall be accompanied by a declaration of service, which shall name the parties who were served or will be served, and the date and method of service. If the declaration names parties who will be served, another declaration of service shall be filed confirming that such parties were actually served, and the date and method of service.

LR 9013.2 Motion Practice.

- (a) Motions or notices of intended action for which only notice and opportunity for hearing are required (see 11 U.S.C. 102) shall proceed by the filing of a notice of motion or intended action substantially complying with Official Form 20A, LR 9014, a motion or statement of intended action conforming with Bankruptcy Rule 9013 and LR 9013.1, and proof of service.
- (b) Without limiting those motions or applications for which a hearing is required under the Bankruptcy Code or Bankruptcy Rules, the following motions or applications require a hearing in this district:
 - (1) A motion to reopen a case to administer assets;
 - (2) A motion to dismiss a Chapter 7 case except on the motion of a trustee to dismiss for failure to appear at a section 341 meeting and the motion of the U.S. Trustee to dismiss under 11 U.S.C. 707(a)(3);
 - (3) A motion to dismiss or convert a Chapter 11 case other than a motion to convert made pursuant to 11 U.S.C. 1112(a);
 - (4) A motion to dismiss a Chapter 13 case if there has been a prior conversion;

- (5) A motion to convert a Chapter 7 case to a Chapter 13 case if there has been a prior conversion;
- (6) All fee requests in Chapter 11 cases;
- (7) Approval of reaffirmation agreements for debtors not represented by counsel;
- (8) Approval of Chapter 7 trustee's final account;
- (9) A request to pay filing fees in installments;
- (10) Sanctions for wrongful conduct.

- (c) The procedure for obtaining a hearing date and providing notice thereof on any matter under the Code, Bankruptcy Rules or these Local Rules for which a hearing is required is set forth in LR 9014.2 and LR 9014.

Comment: The purpose of this rule is to divide the universe of motions into those for which the Code requires a hearing and those for which only notice and opportunity for a hearing is required. Other Local Rules address additional procedures, time limits, notices, content of notices, etc. that apply to each type of motion.

The matters for which hearings will be required by subsection (b) of the Rule were drawn from the published internal procedures/preferences of the bankruptcy judges with some modifications. A hearing on a motion to reopen a case is required only if it is to administer assets as the court may wish to inquire if there was bad faith in failure to disclose an asset. A motion to dismiss a Chapter 7 case does not require a hearing if it is for failure to appear at a section 341 hearing or file schedules. The requirement of a hearing was deemed unduly burdensome for these routine administrative matters. A motion to convert a Chapter 11 case under 11 U.S.C. 1112(a) must be granted, subject to the provisions of that section, so no hearing is required.

LR 9013.3 Motion Practice; Briefs. Unless otherwise ordered by the court, any brief in support or opposition to a motion shall be filed and served no later than five (5) days prior to the date of the hearing.

Comment: The purpose of this rule is to set a reasonable time limit for briefs that will allow the court and the parties to consider the points of law prior to the hearing. The time between a motion or objection and the hearing is often short in bankruptcy matters. Therefore, a rule adopting the same deadline for briefs, whether by proponent or objector, seemed appropriate. The parties will have at least 5 days prior to the hearing to review the opponent's arguments and seek contrary authority to present at the hearing. The opening phrase makes it clear that the court can order a different briefing schedule if warranted by the facts or complexity of the case.

LR 9014 Notice of Motion; Notice of Hearing; Time Periods for Objections.

- (a) A notice of motion or notice of intended action under LR 9013.2 (Motion Practice) shall clearly state that if the party against whom relief is sought wishes to be heard on the motion an objection must be filed and served within fifteen (15) days of the service of the notice (unless either the court orders otherwise or the Bankruptcy Code or Bankruptcy Rules governing the motion or intended action require a different period) e.g., Bankruptcy Rule 2002, 11 U.S.C. 1301(d)) otherwise the court may grant the relief requested without hearing. An objection shall contain a short and plain statement of the legal and/or factual basis for the objection. If an objection is filed with the court and served on the movant on or before fifteen (15) days after the service of the notice of motion or intended

action, the court will schedule a hearing and the court, or such other person as the court may direct, shall give notice thereof to the parties. The notice shall state whether the hearing is evidentiary or preliminary. If no objection is filed within the time period, the movant may proceed under LR 9014.1 (Affidavit of No Objection) but shall serve the affidavit of no objection and proposed order on the opposing party and shall file proof of service thereof.

(b) A notice of hearing for those motions requiring a hearing pursuant to the Bankruptcy Code, Bankruptcy Rules or LR 9013.2(b) shall:

- (1) Substantially conform with Official Form 20A;
- (2) State that any objection to the motion must be served and filed not less than five (5) days before the hearing unless ordered otherwise by the court or prescribed by the Bankruptcy Code or Bankruptcy Rules. If the hearing date is less than ten (10) days after service of the motion, the objection shall be served and filed not less than one (1) day before the hearing.

Comment: This rule works in conjunction with LR 9013.2. Subsection (a) directs the content of the notice where a hearing is scheduled only in the event of an objection. It specifically adopts a 15 day period for an objection to be filed after which an order granting the relief requested may be filed. The committee believes that this rule sets forth the practice that has been followed in the district for many years. The requirement of service of the affidavit of no objection and order on the opposing party is to insure that the order granting relief conforms to the motion to which the opposing party, presumably, had no objection.

Subsection (b) has as its principal purpose setting deadlines for filing objections when hearings are required under the Code, Rules or Local Rules. This will assist the movant, other parties and the court in knowing whether the relief requested will be contested within a reasonable time prior to the hearing.

LR 9014.1 Affidavit of No Objection. If no objection has been filed to a motion, the movant shall file an Affidavit of No Objection, and the court may sign an order granting the motion or may set a hearing on the motion.

LR 9014.2 Obtaining a Hearing Date on a Matter.

- (a) A hearing date on a matter may be requested by telephone or in writing by contacting the Court's Judicial Assistant. The person requesting the hearing date shall inform the Judicial Assistant of the identity of the party making the request, the case name and number, the caption of the matter for which a hearing is requested, an estimate of the court time required, and request the court to designate whether the hearing is evidentiary or preliminary.
- (b) The request for a hearing date from the Court shall constitute a good faith certification by the party making the request that the party's pleadings relating to the hearing will be filed in a timely fashion. In the event that a scheduled hearing date later becomes unnecessary, the party who obtained the hearing date shall contact the Court and request that the

hearing be taken off the calendar.

(c) The party requesting the hearing shall indicate in the notice whether the hearing is evidentiary or preliminary.

(d) Failure to comply with this Rule may result in sanctions being imposed.

Comment: While obtaining a hearing date should be a relatively straight-forward matter, the practice is somewhat complicated by various tangential matters, including varying practices among the courts, whether the hearing will be evidentiary or preliminary, whether the hearing will be by teleconference or in person, etc. In addition, the manner of addressing these matters and obtaining a hearing date unavoidably involves some kind of communication with the Court, which raises concerns about ex parte contacts. The Rule was written to set forth precisely what information could be conveyed to the Judicial Assistant when requesting hearing. By limiting the information, the committee hopes to minimize ex parte communication with the court that might otherwise inadvertently (or not) be conveyed when requesting a hearing.

A related concern addressed by the Committee was whether a party could request a hearing date for a matter where the pleadings had not yet been filed. The Committee discussed the range of possible resolutions: from requiring pleadings to have been filed **before** requesting a hearing, to the other extreme of being able to request hearings without any certification that the pleadings were forth-coming. The Rule adopted was a sort of middle-ground approach by which the person who requests a hearing date, by the simple act of making the request, thereby certifies that the pleadings will be filed in a timely fashion

The Rule also takes into account another rather complicated area, whether a hearing will be evidentiary or preliminary. Of paramount concern to the Committee in this area was that litigants not be ‘sandbagged.’ For example, when a party appears at a hearing thought to be preliminary, and instead is evidentiary. The Committee considered addressing this question with a separate rule, which would have set forth a “default” approach. Under this approach, the Committee considered adopting a rule that would have said, for example, all hearings are evidentiary unless otherwise indicated by the court; or conversely, all hearings are preliminary unless otherwise indicated by the court. After much discussion, the Committee rejected the “default” approach, and opted to focus on the objective of eliminating surprise. This is done in the Rule by requiring the person requesting the hearing to ask the Court what its preference is concerning whether the hearing will be evidentiary or not, and then to include such designation in the notice of the hearing.

LR 9014.3 Hearings; Duty to Confer. Hearings on Motions. Prior to a hearing, the movant and any party objecting thereto shall promptly attempt to resolve by agreement all matters believed to be in dispute. In addition, they shall make a reasonable effort to determine the evidence and the length of time necessary for a hearing on said motion. As soon as practicable, the parties shall advise the Judicial Assistant of the anticipated length of the hearing.

LR 9014.4 Teleconference Hearings; Telephonic Appearances.

(a) Hearings by Teleconference.

(1) Hearings conducted by teleconference may be requested by any party or may be initiated by the Court.

(2) If the Court grants a request for a hearing by teleconference, the party who made the request shall contact the other parties to the

matter and provide appropriate notice that the hearing will be by teleconference.

(3) When a matter is scheduled for a hearing by teleconference, ordinarily all parties are expected to appear by telephone. In the event a party intends to appear in person at a teleconference hearing, then that party shall provide reasonable advance notice of such intention to the other parties to the matter so that they have the opportunity to appear in person as well. In the event advance notice is not provided, at the start of the teleconference hearing the Court will consider whether the matter should be adjourned.

(4) Unless the Court orders otherwise, teleconference hearings will be preliminary hearings without the presentation of evidence. However, if sufficient grounds to grant or deny the Motion are not alleged at the preliminary hearing, the Court may rule on the matter at that time.

(b) **Appearance at a Hearing by Telephone.** For hearings other than teleconference hearings, any party may request permission to appear at such hearing by telephone. The decision of whether to permit a party to appear at a hearing by telephone is in the sole discretion of the Court.

Comment: The Rule makes a distinction between teleconference hearings, where usually all parties appear by telephone, and in-court hearings, where sometimes a party may desire to participate by telephone. Under current practices, concern was expressed about teleconference hearings where one of the parties appears in person without advance notice to the others. This situation puts those parties on the telephone at a disadvantage because the person in court can both receive and transmit information via non-verbal communication such as body language, etc. The Rule was written to deal with this problem by requiring reasonable advance notice in those situations, rather than trying to restrict any party's ability to be present in court. With regard to appearances at hearings by telephone, the Rule simply codifies current practices, which is that parties can appear by telephone if the Court grants permission

LR 9014.5 **Proposed Orders. Orders; 5 Day Rule.** The court shall ordinarily hold proposed orders for five business days after the date of their receipt for comments or objections to the form of the order, which shall be in writing.

LR 9029 **Adoption of Rules.** The United States Bankruptcy Court for the Eastern District of Wisconsin hereby adopts these Local Rules. These rules shall apply to all cases and proceedings in the United States Bankruptcy Court for the Eastern District of Wisconsin now pending or commenced hereafter. In addition, the Local Rules of the United States District Court for the Eastern District of Wisconsin, of which this court is an adjunct, shall apply in all cases and proceedings except to the extent they are inconsistent with the Bankruptcy Rules or these Local Rules.

LR 9029.1 **Waiver or Modification of Local Rules.** The court may waive or modify any of these Local Rules.

LR 9036 **Authorization of use of court's transmission facilities.** This court is authorized to use its own transmission facilities in connection with authorized electronic service among parties or from the courts.